



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

March 12, 1993

Honorable Carl A. Parker
Chair
Economic Development Committee
Texas State Senate
P.O. Box 12068
Austin, Texas 78711

Letter Opinion No. 93-22

Re: Whether a member of the board of trustees of a school district may serve simultaneously as a member of a city council located in the same county (ID# 18954)

Dear Senator Parker:

You have requested our opinion as to whether a member of a school district board of trustees may serve simultaneously as a member of a city council located in the same county. You indicate that the two political subdivisions share, in part, a common geographical area.

The common-law doctrine of incompatibility prohibits a single individual from simultaneously holding two positions. One branch of the doctrine has been designated by this office as the "conflicting loyalties" rule, and it is applicable in situations in which a person holds positions in two *different* political subdivisions that have some degree of overlapping geographical jurisdiction. Attorney General Opinion JM-129 (1984); *see also* Attorney General Opinion JM-1266 (1990).¹

The *original* Texas case relying on the doctrine of incompatibility held that "the offices of school trustee and alderman are incompatible," because aldermen exercise "various directory or supervisory powers . . . in respect to school property located within the city or town and in respect to the duties of school trustee performable within its limits." *Thomas v. Abernathy County Line Indep. Sch. Dist.*, 290 S.W. 152, 153 (Tex. Comm'n App., 1927, judgm't adopted). In holding that the offices of community college district trustee and county commissioner were incompatible as a matter of law, this office has said that, "since the boundaries of the district and the county are coterminous, the potential for . . . conflict always exists." Attorney General Opinion JM-129 at 3.

¹The "self-employment" aspect of the incompatibility doctrine proscribes, for example, the employment of a member of a school district's board of trustees as a teacher in that district. *See* Attorney General Letter Advisory No. 114 (1975).

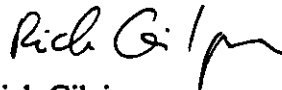
Particularly in instances in which both governing bodies exercise the taxing function, the possibility of "conflicting loyalties" is paramount and obvious. As this office declared in Attorney General Opinion JM-129, since the "county and the junior college district could have conflicting interests with respect to tax collection," it follows that "one person serving as junior college trustee and county commissioner could not serve the best interests of both." *Id.* at 2.

In our opinion, therefore, a member of a school district board of trustees may not serve simultaneously as a member of a city council in an instance in which the two political subdivisions have any amount of overlapping geographical jurisdiction.²

S U M M A R Y

A member of a school district board of trustees may not serve simultaneously as a member of a city council in any instance in which the two political subdivisions share any overlapping geographical jurisdiction.

Yours very truly,



Rick Gilpin
Deputy Chief
Opinion Committee

²Article XVI, section 40 of the Texas Constitution, the principal *constitutional* bar to dual-office-holding, is presumably not applicable here, because it proscribes only the holding of two different offices "of emolument." In the usual situation, a school district trustee serves without compensation.